

108TH CONGRESS
1ST SESSION

S. 1570

To amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and to establish State health insurance safety-net programs.

IN THE SENATE OF THE UNITED STATES

AUGUST 1 (legislative day, JULY 21), 2003

Mr. SANTORUM (for himself and Mr. GRAHAM of South Carolina) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and to establish State health insurance safety-net programs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fair Care for the Un-
5 insured Act of 2003”.

1 **TITLE I—REFUNDABLE CREDIT**
 2 **FOR HEALTH INSURANCE**
 3 **COVERAGE**

4 **SEC. 101. REFUNDABLE CREDIT FOR HEALTH INSURANCE**
 5 **COVERAGE.**

6 (a) IN GENERAL.—Subpart C of part IV of sub-
 7 chapter A of chapter 1 of the Internal Revenue Code of
 8 1986 (relating to refundable credits) is amended by redес-
 9 ignating section 36 as section 37 and by inserting after
 10 section 35 the following new section:

11 **“SEC. 36. HEALTH INSURANCE COSTS.**

12 “(a) IN GENERAL.—In the case of an individual,
 13 there shall be allowed as a credit against the tax imposed
 14 by this subtitle an amount equal to the amount paid dur-
 15 ing the taxable year for qualified health insurance for the
 16 taxpayer, his spouse, and dependents.

17 “(b) LIMITATIONS.—

18 “(1) IN GENERAL.—The amount allowed as a
 19 credit under subsection (a) to the taxpayer for the
 20 taxable year shall not exceed the sum of the monthly
 21 limitations for coverage months during such taxable
 22 year for each individual referred to in subsection (a)
 23 for whom the taxpayer paid during the taxable year
 24 any amount for coverage under qualified health in-
 25 surance.

1 “(2) MONTHLY LIMITATIONS.—

2 “(A) IN GENERAL.—The monthly limita-
3 tion for an individual for each coverage month
4 of such individual during the taxable year is the
5 amount equal to $\frac{1}{12}$ of—

6 “(i) \$1,000 if such individual is the
7 taxpayer,

8 “(ii) \$1,000 if—

9 “(I) such individual is the spouse
10 of the taxpayer,

11 “(II) the taxpayer and such
12 spouse are married as of the first day
13 of such month, and

14 “(III) the taxpayer files a joint
15 return for the taxable year, and

16 “(iii) \$500 if such individual is an in-
17 dividual for whom a deduction under sec-
18 tion 151(c) is allowable to the taxpayer for
19 such taxable year.

20 “(B) LIMITATION TO 2 DEPENDENTS.—

21 Not more than 2 individuals may be taken into
22 account by the taxpayer under subparagraph
23 (A)(iii).

24 “(C) SPECIAL RULE FOR MARRIED INDIVIDUALS.—In the case of an individual—
25

1 “(i) who is married (within the mean-
 2 ing of section 7703) as of the close of the
 3 taxable year but does not file a joint return
 4 for such year, and

5 “(ii) who does not live apart from
 6 such individual’s spouse at all times during
 7 the taxable year,
 8 the limitation imposed by subparagraph (B)
 9 shall be divided equally between the individual
 10 and the individual’s spouse unless they agree on
 11 a different division.

12 “(3) COVERAGE MONTH.—For purposes of this
 13 subsection—

14 “(A) IN GENERAL.—The term ‘coverage
 15 month’ means, with respect to an individual,
 16 any month if—

17 “(i) as of the first day of such month
 18 such individual is covered by qualified
 19 health insurance, and

20 “(ii) the premium for coverage under
 21 such insurance for such month is paid by
 22 the taxpayer.

23 “(B) EMPLOYER-SUBSIDIZED COV-
 24 ERAGE.—

1 “(i) IN GENERAL.—Such term shall
 2 not include any month for which such indi-
 3 vidual is eligible to participate in any sub-
 4 sidized health plan (within the meaning of
 5 section 162(l)(2)) maintained by any em-
 6 ployer of the taxpayer or of the spouse of
 7 the taxpayer.

8 “(ii) PREMIUMS TO NONSUBSIDIZED
 9 PLANS.—If an employer of the taxpayer or
 10 the spouse of the taxpayer maintains a
 11 health plan which is not a subsidized
 12 health plan (as so defined) and which con-
 13 stitutes qualified health insurance, em-
 14 ployee contributions to the plan shall be
 15 treated as amounts paid for qualified
 16 health insurance.

17 “(C) CAFETERIA PLAN AND FLEXIBLE
 18 SPENDING ACCOUNT BENEFICIARIES.—Such
 19 term shall not include any month during a tax-
 20 able year if any amount is not includable in the
 21 gross income of the taxpayer for such year
 22 under section 106 with respect to—

23 “(i) a benefit chosen under a cafeteria
 24 plan (as defined in section 125(d)), or

1 “(ii) a benefit provided under a flexi-
2 ble spending or similar arrangement.

3 “(D) MEDICARE AND MEDICAID.—Such
4 term shall not include any month with respect
5 to an individual if, as of the first day of such
6 month, such individual—

7 “(i) is entitled to any benefits under
8 title XVIII of the Social Security Act, or

9 “(ii) is a participant in the program
10 under title XIX or XXI of such Act.

11 “(E) CERTAIN OTHER COVERAGE.—Such
12 term shall not include any month during a tax-
13 able year with respect to an individual if, at any
14 time during such year, any benefit is provided
15 to such individual under—

16 “(i) chapter 89 of title 5, United
17 States Code,

18 “(ii) chapter 55 of title 10, United
19 States Code,

20 “(iii) chapter 17 of title 38, United
21 States Code, or

22 “(iv) any medical care program under
23 the Indian Health Care Improvement Act.

24 “(F) PRISONERS.—Such term shall not in-
25 clude any month with respect to an individual

1 if, as of the first day of such month, such indi-
 2 vidual is imprisoned under Federal, State, or
 3 local authority.

4 “(G) INSUFFICIENT PRESENCE IN UNITED
 5 STATES.—Such term shall not include any
 6 month during a taxable year with respect to an
 7 individual if such individual is present in the
 8 United States on fewer than 183 days during
 9 such year (determined in accordance with sec-
 10 tion 7701(b)(7)).

11 “(4) COORDINATION WITH DEDUCTION FOR
 12 HEALTH INSURANCE COSTS OF SELF-EMPLOYED IN-
 13 DIVIDUALS.—In the case of a taxpayer who is eligi-
 14 ble to deduct any amount under section 162(l) for
 15 the taxable year, this section shall apply only if the
 16 taxpayer elects not to claim any amount as a deduc-
 17 tion under such section for such year.

18 “(c) QUALIFIED HEALTH INSURANCE.—For pur-
 19 poses of this section—

20 “(1) IN GENERAL.—The term ‘qualified health
 21 insurance’ means insurance which constitutes med-
 22 ical care as defined in section 213(d) without regard
 23 to—

24 “(A) paragraph (1)(C) thereof, and

1 “(B) so much of paragraph (1)(D) thereof
 2 as relates to qualified long-term care insurance
 3 contracts.

4 “(2) EXCLUSION OF CERTAIN OTHER CON-
 5 TACTS.—Such term shall not include insurance if a
 6 substantial portion of its benefits are excepted bene-
 7 fits (as defined in section 9832(c)).

8 “(d) MEDICAL SAVINGS ACCOUNT CONTRIBU-
 9 TIONS.—

10 “(1) IN GENERAL.—If a deduction would (but
 11 for paragraph (2)) be allowed under section 220 to
 12 the taxpayer for a payment for the taxable year to
 13 the medical savings account of an individual, sub-
 14 section (a) shall be applied by treating such payment
 15 as a payment for qualified health insurance for such
 16 individual.

17 “(2) DENIAL OF DOUBLE BENEFIT.—No deduc-
 18 tion shall be allowed under section 220 for that por-
 19 tion of the payments otherwise allowable as a deduc-
 20 tion under section 220 for the taxable year which is
 21 equal to the amount of credit allowed for such tax-
 22 able year by reason of this subsection.

23 “(e) SPECIAL RULES.—

24 “(1) COORDINATION WITH MEDICAL EXPENSE
 25 DEDUCTION.—The amount which would (but for this

1 paragraph) be taken into account by the taxpayer
2 under section 213 for the taxable year shall be re-
3 duced by the credit (if any) allowed by this section
4 to the taxpayer for such year.

5 “(2) DENIAL OF CREDIT TO DEPENDENTS.—No
6 credit shall be allowed under this section to any indi-
7 vidual with respect to whom a deduction under sec-
8 tion 151 is allowable to another taxpayer for a tax-
9 able year beginning in the calendar year in which
10 such individual’s taxable year begins.

11 “(3) INFLATION ADJUSTMENT.—In the case of
12 any taxable year beginning in a calendar year after
13 2004, each dollar amount contained in subsection
14 (b)(2)(A) shall be increased by an amount equal
15 to—

16 “(A) such dollar amount, multiplied by

17 “(B) the cost-of-living adjustment deter-
18 mined under section 1(f)(3) for the calendar
19 year in which the taxable year begins, deter-
20 mined by substituting ‘calendar year 2003’ for
21 ‘calendar year 1992’ in subparagraph (B)
22 thereof.

23 Any increase determined under the preceding sen-
24 tence shall be rounded to the nearest multiple of \$50

1 (\$25 in the case of the dollar amount in subsection
2 (b)(2)(A)(iii)).”.

3 (b) INFORMATION REPORTING.—

4 (1) IN GENERAL.—Subpart B of part III of
5 subchapter A of chapter 61 of such Code (relating
6 to information concerning transactions with other
7 persons) is amended by adding at the end the fol-
8 lowing new section:

9 **“SEC. 6050U. RETURNS RELATING TO PAYMENTS FOR**
10 **QUALIFIED HEALTH INSURANCE.**

11 “(a) IN GENERAL.—Any person who, in connection
12 with a trade or business conducted by such person, re-
13 ceives payments during any calendar year from any indi-
14 vidual for coverage of such individual or any other indi-
15 vidual under creditable health insurance, shall make the
16 return described in subsection (b) (at such time as the
17 Secretary may by regulations prescribe) with respect to
18 each individual from whom such payments were received.

19 “(b) FORM AND MANNER OF RETURNS.—A return
20 is described in this subsection if such return—

21 “(1) is in such form as the Secretary may pre-
22 scribe, and

23 “(2) contains—

1 “(A) the name, address, and TIN of the
2 individual from whom payments described in
3 subsection (a) were received,

4 “(B) the name, address, and TIN of each
5 individual who was provided by such person
6 with coverage under creditable health insurance
7 by reason of such payments and the period of
8 such coverage, and

9 “(C) such other information as the Sec-
10 retary may reasonably prescribe.

11 “(c) CREDITABLE HEALTH INSURANCE.—For pur-
12 poses of this section, the term ‘creditable health insurance’
13 means qualified health insurance (as defined in section
14 36(c)) other than—

15 “(1) insurance under a subsidized group health
16 plan maintained by an employer, or

17 “(2) to the extent provided in regulations pre-
18 scribed by the Secretary, any other insurance cov-
19 ering an individual if no credit is allowable under
20 section 36 with respect to such coverage.

21 “(d) STATEMENTS TO BE FURNISHED TO INDIVID-
22 UALS WITH RESPECT TO WHOM INFORMATION IS RE-
23 QUIRED.—Every person required to make a return under
24 subsection (a) shall furnish to each individual whose name

1 is required under subsection (b)(2)(A) to be set forth in
 2 such return a written statement showing—

3 “(1) the name and address of the person re-
 4 quired to make such return and the phone number
 5 of the information contact for such person,

6 “(2) the aggregate amount of payments de-
 7 scribed in subsection (a) received by the person re-
 8 quired to make such return from the individual to
 9 whom the statement is required to be furnished, and

10 “(3) the information required under subsection
 11 (b)(2)(B) with respect to such payments.

12 The written statement required under the preceding sen-
 13 tence shall be furnished on or before January 31 of the
 14 year following the calendar year for which the return
 15 under subsection (a) is required to be made.

16 “(e) RETURNS WHICH WOULD BE REQUIRED TO BE
 17 MADE BY 2 OR MORE PERSONS.—Except to the extent
 18 provided in regulations prescribed by the Secretary, in the
 19 case of any amount received by any person on behalf of
 20 another person, only the person first receiving such
 21 amount shall be required to make the return under sub-
 22 section (a).”.

23 (2) ASSESSABLE PENALTIES.—

24 (A) Subparagraph (B) of section
 25 6724(d)(1) of such Code (relating to defini-

tions) is amended by redesignating clauses (xi) through (xviii) as clauses (xii) through (xix), respectively, and by inserting after clause (x) the following new clause:

“(xi) section 6050U (relating to returns relating to payments for qualified health insurance),”.

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking “or” at the end of subparagraph (AA), by striking the period at the end of subparagraph (BB) and inserting “, or”, and by adding at the end the following new subparagraph:

“(CC) section 6050U(d) (relating to returns relating to payments for qualified health insurance).”.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by adding at the end the following new item:

“Sec. 6050U. Returns relating to payments for qualified health insurance.”.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period “, or from section 36 of such Code”.

1 (2) The table of sections for subpart C of part
 2 IV of subchapter A of chapter 1 of such Code is
 3 amended by striking the last item and inserting the
 4 following new items:

 “Sec. 36. Health insurance costs.

 “Sec. 37. Overpayments of tax.”.

5 (d) **EFFECTIVE DATE.**—The amendments made by
 6 this section shall apply to taxable years beginning after
 7 December 31, 2003.

8 **SEC. 102. ADVANCE PAYMENT OF CREDIT FOR PUR-**
 9 **CHASERS OF QUALIFIED HEALTH INSUR-**
 10 **ANCE.**

11 (a) **IN GENERAL.**—Chapter 77 of the Internal Rev-
 12 enue Code of 1986 (relating to miscellaneous provisions)
 13 is amended by adding at the end the following new section:

14 **“SEC 7528. ADVANCE PAYMENT OF HEALTH INSURANCE**
 15 **CREDIT FOR PURCHASERS OF QUALIFIED**
 16 **HEALTH INSURANCE.**

17 “(a) **GENERAL RULE.**—In the case of an eligible indi-
 18 vidual, the Secretary shall make payments to the provider
 19 of such individual’s qualified health insurance equal to
 20 such individual’s qualified health insurance credit advance
 21 amount with respect to such provider.

22 “(b) **ELIGIBLE INDIVIDUAL.**—For purposes of this
 23 section, the term ‘eligible individual’ means any indi-
 24 vidual—

1 “(1) who purchases qualified health insurance
2 (as defined in section 36(c)), and

3 “(2) for whom a qualified health insurance
4 credit eligibility certificate is in effect.

5 “(c) QUALIFIED HEALTH INSURANCE CREDIT ELIGI-
6 BILITY CERTIFICATE.—For purposes of this section, a
7 qualified health insurance credit eligibility certificate is a
8 statement furnished by an individual to the Secretary
9 which—

10 “(1) certifies that the individual will be eligible
11 to receive the credit provided by section 36 for the
12 taxable year,

13 “(2) estimates the amount of such credit for
14 such taxable year, and

15 “(3) provides such other information as the
16 Secretary may require for purposes of this section.

17 “(d) QUALIFIED HEALTH INSURANCE CREDIT AD-
18 VANCE AMOUNT.—For purposes of this section, the term
19 ‘qualified health insurance credit advance amount’ means,
20 with respect to any provider of qualified health insurance,
21 the Secretary’s estimate of the amount of credit allowable
22 under section 36 to the individual for the taxable year
23 which is attributable to the insurance provided to the indi-
24 vidual by such provider.

1 “(e) REGULATIONS.—The Secretary shall prescribe
2 such regulations as may be necessary to carry out the pur-
3 poses of this section.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 for chapter 77 of such Code is amended by adding at the
6 end the following new item:

“Sec. 7528. Advance payment of health insurance credit for pur-
chasers of qualified health insurance.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect on January 1, 2004.

9 **TITLE II—STATE HIGH RISK** 10 **HEALTH INSURANCE POOLS**

11 **SEC. 201. EXTENSION OF FUNDING FOR OPERATION OF** 12 **STATE HIGH RISK HEALTH INSURANCE** 13 **POOLS.**

14 Section 2745(c)(2) of the Public Health Service Act,
15 as inserted by section 201 of the Trade Act of 2002 (Pub-
16 lic Law 107–210), is amended—

17 (1) in subsection (b)(1), by striking “estab-
18 lished a qualified health risk pool that” and all that
19 follows through the end of subparagraph (C) and in-
20 serting “established a qualified health risk pool that
21 provides for premium rates and covered benefits for
22 such coverage consistent with standards included in
23 the NAIC Model Health Plan for Uninsurable Indi-
24 viduals”;

(2) in subsection (b)(2), by striking “number of uninsured individuals” and inserting “enrollees in qualified high risk pools”; and

(3) in subsection (c)(2), by striking “\$40,000,000 for each of fiscal years 2003 and 2004” and inserting “\$40,000,000 for fiscal year 2003 and \$75,000,000 for each of fiscal years 2004 through 2009”.

TITLE III—INDIVIDUAL MEMBERSHIP ASSOCIATIONS

SEC. 301. EXPANSION OF ACCESS AND CHOICE THROUGH INDIVIDUAL MEMBERSHIP ASSOCIATIONS (IMAs).

The Public Health Service Act is amended by adding at the end the following new title:

“TITLE XXIX—INDIVIDUAL MEMBERSHIP ASSOCIATIONS

“SEC. 2901. DEFINITION OF INDIVIDUAL MEMBERSHIP AS- SOCIATION (IMA).

“(a) IN GENERAL.—For purposes of this title, the terms ‘individual membership association’ and ‘IMA’ mean a legal entity that meets the following requirements:

“(1) ORGANIZATION.—The IMA is an organization operated under the direction of an association (as defined in section 2904(1)).

1 “(2) OFFERING HEALTH BENEFITS COV-
2 ERAGE.—

3 “(A) DIFFERENT GROUPS.—The IMA, in
4 conjunction with those health insurance issuers
5 that offer health benefits coverage through the
6 IMA, makes available health benefits coverage
7 in the manner described in subsection (b) to all
8 members of the IMA and the dependents of
9 such members in the manner described in sub-
10 section (c)(2) at rates that are established by
11 the health insurance issuer or a policy or prod-
12 uct specific basis and that may vary only as
13 permissible under State law.

14 “(B) NONDISCRIMINATION IN COVERAGE
15 OFFERED.—

16 “(i) IN GENERAL.—Subject to clause
17 (ii), the IMA may not offer health benefits
18 coverage to a member of an IMA unless
19 the same coverage is offered to all such
20 members of the IMA.

21 “(ii) CONSTRUCTION.—Nothing in
22 this title shall be construed as requiring or
23 permitting a health insurance issuer to
24 provide coverage outside the service area of
25 the issuer, as approved under State law, or

1 preventing a health insurance issuer from
2 excluding or limiting the coverage on any
3 individual, subject to the requirement of
4 section 2741.

5 “(C) NO FINANCIAL UNDERWRITING.—The
6 IMA provides health benefits coverage only
7 through contracts with health insurance issuers
8 and does not assume insurance risk with re-
9 spect to such coverage.

10 “(3) GEOGRAPHIC AREAS.—Nothing in this title
11 shall be construed as preventing the establishment
12 and operation of more than one IMA in a geographic
13 area or as limiting the number of IMAs that may
14 operate in any area.

15 “(4) PROVISION OF ADMINISTRATIVE SERVICES
16 TO PURCHASERS.—

17 “(A) IN GENERAL.—The IMA may provide
18 administrative services for members. Such serv-
19 ices may include accounting, billing, and enroll-
20 ment information.

21 “(B) CONSTRUCTION.—Nothing in this
22 subsection shall be construed as preventing an
23 IMA from serving as an administrative service
24 organization to any entity.

1 “(5) FILING INFORMATION.—The IMA files
 2 with the Secretary information that demonstrates
 3 the IMA’s compliance with the applicable require-
 4 ments of this title.

5 “(b) HEALTH BENEFITS COVERAGE REQUIRE-
 6 MENTS.—

7 “(1) COMPLIANCE WITH CONSUMER PROTEC-
 8 TION REQUIREMENTS.—Any health benefits coverage
 9 offered through an IMA shall—

10 “(A) be underwritten by a health insurance
 11 issuer that—

12 “(i) is licensed (or otherwise regu-
 13 lated) under State law,

14 “(ii) meets all applicable State stand-
 15 ards relating to consumer protection, sub-
 16 ject to section 2902(2), and

17 “(iii) offers the coverage under a con-
 18 tract with the IMA; and

19 “(B) subject to paragraph (2) and section
 20 2902(2), be approved or otherwise permitted to
 21 be offered under State law.

22 “(2) EXAMPLES OF TYPES OF COVERAGE.—The
 23 benefits coverage made available through an IMA
 24 may include, but is not limited to, any of the fol-

1 lowing if it meets the other applicable requirements
2 of this title:

3 “(A) Coverage through a health mainte-
4 nance organization.

5 “(B) Coverage in connection with a pre-
6 ferred provider organization.

7 “(C) Coverage in connection with a li-
8 censed provider-sponsored organization.

9 “(D) Indemnity coverage through an insur-
10 ance company.

11 “(E) Coverage offered in connection with a
12 contribution into a medical savings account or
13 flexible spending account.

14 “(F) Coverage that includes a point-of-
15 service option.

16 “(G) Any combination of such types of
17 coverage.

18 “(3) HEALTH INSURANCE COVERAGE OP-
19 TIONS.—An IMA shall include a minimum of 2
20 health insurance coverage options. At least 1 option
21 shall meet all applicable State benefit mandates.

22 “(4) WELLNESS BONUSES FOR HEALTH PRO-
23 MOTION.—Nothing in this title shall be construed as
24 precluding a health insurance issuer offering health
25 benefits coverage through an IMA from establishing

1 premium discounts or rebates for members or from
 2 modifying otherwise applicable copayments or
 3 deductibles in return for adherence to programs of
 4 health promotion and disease prevention so long as
 5 such programs are agreed to in advance by the IMA
 6 and comply with all other provisions of this title and
 7 do not discriminate among similarly situated mem-
 8 bers.

9 “(c) MEMBERS; HEALTH INSURANCE ISSUERS.—

10 “(1) MEMBERS.—

11 “(A) IN GENERAL.—Under rules estab-
 12 lished to carry out this title, with respect to an
 13 individual who is a member of an IMA, the in-
 14 dividual may apply for health benefits coverage
 15 (including coverage for dependents of such indi-
 16 vidual) offered by a health insurance issuer
 17 through the IMA.

18 “(B) RULES FOR ENROLLMENT.—Nothing
 19 in this paragraph shall preclude an IMA from
 20 establishing rules of enrollment and reenroll-
 21 ment of members. Such rules shall be applied
 22 consistently to all members within the IMA and
 23 shall not be based in any manner on health sta-
 24 tus-related factors.

1 “(2) HEALTH INSURANCE ISSUERS.—The con-
 2 tract between an IMA and a health insurance issuer
 3 shall provide, with respect to a member enrolled with
 4 health benefits coverage offered by the issuer
 5 through the IMA, for the payment of the premiums
 6 collected by the issuer.

7 **“SEC. 2902. APPLICATION OF CERTAIN LAWS AND REQUIRE-**
 8 **MENTS.**

9 “State laws insofar as they relate to any of the fol-
 10 lowing are superseded and shall not apply to health bene-
 11 fits coverage made available through an IMA:

12 “(1) Benefit requirements for health benefits
 13 coverage offered through an IMA, including (but not
 14 limited to) requirements relating to coverage of spe-
 15 cific providers, specific services or conditions, or the
 16 amount, duration, or scope of benefits, but not in-
 17 cluding requirements to the extent required to imple-
 18 ment title XXVII or other Federal law and to the
 19 extent the requirement prohibits an exclusion of a
 20 specific disease from such coverage.

21 “(2) Any other requirement (including limita-
 22 tions on compensation arrangements) that, directly
 23 or indirectly, preclude (or have the effect of pre-
 24 cluding) the offering of such coverage through an

1 IMA, if the IMA meets the requirements of this
2 title.

3 Any State law or regulation relating to the composition
4 or organization of an IMA is preempted to the extent the
5 law or regulation is inconsistent with the provisions of this
6 title.

7 **“SEC. 2903. ADMINISTRATION.**

8 “(a) IN GENERAL.—The Secretary shall administer
9 this title and is authorized to issue such regulations as
10 may be required to carry out this title. Such regulations
11 shall be subject to Congressional review under the provi-
12 sions of chapter 8 of title 5, United States Code. The Sec-
13 retary shall incorporate the process of ‘deemed file and
14 use’ with respect to the information filed under section
15 2901(a)(5)(A) and shall determine whether information
16 filed by an IMA demonstrates compliance with the applica-
17 ble requirements of this title. The Secretary shall exercise
18 authority under this title in a manner that fosters and
19 promotes the development of IMAs in order to improve
20 access to health care coverage and services.

21 “(b) PERIODIC REPORTS.—The Secretary shall sub-
22 mit to Congress a report every 30 months, during the 10-
23 year period beginning on the effective date of the rules
24 promulgated by the Secretary to carry out this title, on
25 the effectiveness of this title in promoting coverage of un-

1 insured individuals. The Secretary may provide for the
 2 production of such reports through one or more contracts
 3 with appropriate private entities.

4 **“SEC. 2904. DEFINITIONS.**

5 “For purposes of this title:

6 “(1) ASSOCIATION.—The term ‘association’
 7 means, with respect to health insurance coverage of-
 8 fered in a State, an association which—

9 “(A) has been actively in existence for at
 10 least 5 years;

11 “(B) has been formed and maintained in
 12 good faith for purposes other than obtaining in-
 13 surance;

14 “(C) does not condition membership in the
 15 association on any health status-related factor
 16 relating to an individual (including an employee
 17 of an employer or a dependent of an employee);
 18 and

19 “(D) does not make health insurance cov-
 20 erage offered through the association available
 21 other than in connection with a member of the
 22 association.

23 “(2) DEPENDENT.—The term ‘dependent’, as
 24 applied to health insurance coverage offered by a
 25 health insurance issuer licensed (or otherwise regu-

1 lated) in a State, shall have the meaning applied to
 2 such term with respect to such coverage under the
 3 laws of the State relating to such coverage and such
 4 an issuer. Such term may include the spouse and
 5 children of the individual involved.

6 “(3) HEALTH BENEFITS COVERAGE.—The term
 7 ‘health benefits coverage’ has the meaning given the
 8 term health insurance coverage in section
 9 2791(b)(1).

10 “(4) HEALTH INSURANCE ISSUER.—The term
 11 ‘health insurance issuer’ has the meaning given such
 12 term in section 2791(b)(2).

13 “(5) HEALTH STATUS-RELATED FACTOR.—The
 14 term ‘health status-related factor’ has the meaning
 15 given such term in section 2791(d)(9).

16 “(6) IMA; INDIVIDUAL MEMBERSHIP ASSOCIA-
 17 TION.—The terms ‘IMA’ and ‘individual membership
 18 association’ are defined in section 2901(a).

19 “(7) MEMBER.—The term ‘member’ means,
 20 with respect to the IMA, an individual who is a
 21 member of the association to which the IMA is offer-
 22 ing coverage.”.

○